

Fresno, California

July 24, 2007

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Cynthia Sterling	Councilmember
Larry Westerlund	Councilmember	
	Blong Xiong	Acting Council President
Henry Perea	Council President	
Andy Souza, City Manager		
Jim Sanchez, City Attorney		
Becky Klisch, City Clerk		
Yolanda Salazar, Assistant City Clerk		

Pastor Kurt Johnson of Life Tabernacle gave the invocation, and President Perea led the Pledge of Allegiance.

PROCLAMATION OF "FRESNO FORCE SOFTBALL PROGRAM DAY" - ACTING PRESIDENT XIONG

Removed from the agenda.

PROCLAMATION OF "WILLIE AND MARYLOU SHOEMAKER DAY"

RESOLUTION OF COMMENDATION TO RICHARD HERRERA, HANDY RIDE DRIVER

The above proclamation and resolution were read and presented.

PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE SUMMER QUARTER

Certificates of Commendation were presented to Ann Kloose, Mayor/Council/City Manager/Call Center/City Clerk Offices; Rosie Rivera, Airports Department; Victoria Tuttle, City Attorney's Office; Judi Huss, Christina Cronin and Karey Wedemeyer, Fire Department; Joe Mann, Amos Uyemuki and Robert Mesel, Fresno Area Express; Jean Runnels, General Services Department; Rob Barnes, Information Services Department; Angelica Ramirez, Personnel Services Department; Dawn Marple and Cheryl Haroldsen, Planning & Development Department; Michael Higginbotham, Dave Ramos, Linda Lawley, Mike Smith and Poppy Burger, Police Department; Rowde Blackwell, Ed Duran, Phong Cao, Mike Flores, Terry Price and Lorraine Tilton, Public Utilities Department; and Bill Herr and Albert Vann, Public Works Department. A reception was held immediately following to honor the employees.

APPROVE MINUTES OF THE JULY 13, 2007, JOINT MEETING WITH THE BOARD OF SUPERVISORS

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of July 13, 2007, approved as submitted.

APPROVE CITY COUNCIL MINUTES OF JULY 17, 2007

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of July 17, 2007, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER STERLING: (1) Thank you to all for the outpouring of support, prayers, calls and plants/flowers on the passing of her Mother; and (2) comments on the Running Horse project/Trump proposal including her being briefed and in receipt of all information, her office having a running list of all concerns, her holding a meeting shortly with West Fresno area residents to discuss the proposal and concerns, her staying silent and cautiously optimistic until such time as it is appropriate to speak out, her making the list of concerns available to the proper people at the appropriate time, her hope that all concerns and issues will be addressed, and her top concern being for the residents of the area.

ACTING PRESIDENT XIONG: (1) Thank you to City Manager Souza for working with his staff in inviting young students to City Hall to learn from professionals; and (2) comments on Running Horse including the attention it is receiving and need balance that and do our due-diligence.

COUNCILMEMBER CALHOUN: (1) Report on his meetings with district residents on non-conforming fence heights and residential code violations.

COUNCILMEMBER DAGES: Reiteration of request city manager request the police department to connect with Micro Dots/Data Dots for free training on their theft system to protect personal property.

COUNCILMEMBER WESTERLUND: Reiteration of request for status of the finance policy, with City Manager Souza advising it would possibly be on next weeks agenda.

PRESIDENT PEREA: (1) Thank you to his staff and Councilmembers Sterling and Xiong's staff for their work on the Weed and Seed Service Fair event; and (2) commendation to FCEA on their employee picnic at Fink White playground and to staff on the great improvements at Fink White.

APPROVE AGENDA:

(9:00 A.M.) PUBLIC COMMENT PERIOD - SCHEDULED COMMUNICATION:

(A) APPEARANCE BY DON GLASSON TO DISCUSS THE PLANNING & DEVELOPMENT DEPARTMENT'S BUILDING INSPECTION DIVISION

Request to appear withdrawn/removed from the agenda.

(1-I) APPROVE CITY MANAGER'S APPOINTMENT OF TERRY BOND, DIRECTOR OF PERSONNEL SERVICES, AS A BOARD MEMBER ON THE CITY OF FRESNO DEFERRED COMPENSATION BOARD

Removed from the agenda by the city manager/to be rescheduled.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the **AGENDA** hereby adopted, *as amended*, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Councilmember Calhoun pulled Item **1-F** and Councilmember Westerlund pulled Items **1-B** and **1-H** from the consent calendar for separate discussion/action at 2:00 p.m.

(1-A) APPROVE ENVIRONMENTAL ASSESSMENT (E.A.) NO. 014-07053, DETERMINATION OF EXEMPTION FOR THE PROJECT, AND APPROVE THE PURCHASE OF FIVE VACANT PARCELS LOCATED AT 1122/1136/1150/1166/1212 S. WEST AVENUE, FROM THE STATE OF CALIFORNIA UTILIZING \$364,500 IN HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS, FOR THE DEVELOPMENT OF A MIXED INCOME SINGLE-FAMILY HOUSING PROJECT

(1-C) APPROVE A ONE YEAR CONCESSION AGREEMENT WITH FOUR SUCCESSIVE ONE-YEAR EXTENSION OPTIONS IN FAVOR OF THE CITY, WITH THE CURRENT WIRELESS SERVICE(WiFi) PROVIDER IN THE PASSENGER TERMINAL AT FYI AIRPORT, INTELLIGENT NETWORK COMMUNICATIONS, INC., d.b.a. INTEGRATED WiFi

(1-D) APPROVE REQUEST OF SJ AMOROSO CONSTRUCTION TO ASSIGN/TRANSFER THE SUBCONTRACTOR OF FABRITEC, INC., TO U.S. SHADE & FABRIC STRUCTURES, INC., FOR THE SHADE CANOPY STRUCTURE PORTION OF THE CONSOLIDATED RENTAL CAR FACILITY PROJECT AT FYI AIRPORT

(1-E) APPROVE ACQUISITION OF A STREET EASEMENT FROM PROPERTY OWNED BY NORTH CALVARY CHURCH FOR THE REPLACEMENT OF TRAFFIC SIGNALS AT THE INTERSECTION OF MAPLE AND TEAGUE AVENUES, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE DEED OF EASEMENT AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-G) AWARD A CONTRACT TO "R" ROOTER & PLUMBING IN THE AMOUNT OF \$154,634 FOR THE INSTALLATION OF AN 8" WATER MAIN IN THE BUTLER-LIBERTY AND LYELL-LOWE ALLEYS FROM SIERRA VISTA TO CHESTNUT AVENUES

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

(2 - 0) Patricia Adams, Handy Ride user, and Mildred Ingram, a counselor with the Department of Rehabilitation, spoke to and expressed concerns relative to Handy Ride in terms of how the service has fallen short and people not being treated with respect.

David Wells spoke to the Running Horse project including the exclusion of qualified developers and Mr. Trump having an unfair advantage with bidding.

(2:30 P.M.) ACTIONS REGARDING FY 2008 BUDGET CONSIDERATION REQUESTS AND LINE ITEM VETOES

(‘A’) REQUEST FOR OVERRIDE OF MAYORAL VETO - PRESIDENT PEREA (Requires 5 affirmative votes)

1. REDUCTION OF \$350,000 RELATED TO POLICE DEPARTMENT GANG SUPPRESSION/INTELLIGENCE UNIT (RES. 2007-214 - AAR)
2. REDUCTION OF \$100,000 AS MATCHING FUNDS FOR STORYLAND/PLAYLAND AS CURRENTLY PRESENTED (RES. 2007-214 - AAR)

Barry Falke, Executive Director of Storyland/Playland (SL/PL), spoke to Item **A-2** and in support of overriding the veto; and David Wells, POB 1733, spoke to the Roeding Park boat pond (Lake Washington) stating it was filthy and disgusting and needed to be addressed immediately.

Councilmember Sterling spoke to Item **A-1** thanking Council for their support, stated she had an opportunity to talk extensively with Chief Dyer about gang problems and suppression efforts and explained, and stated Chief Dyer explained to her his plan to focus more on areas of importance to her and she felt it would be best to *not* override the veto. Upon call, no motion was made and the veto stood.

Councilmember Sterling spoke to Item A-2 and in support of overriding the veto and made a motion to do so, which motion was seconded by Councilmember Dages.

Extensive discussion ensued with City Manager Souza, Mr. Falke and City Attorney Sanchez responding to questions and comments of Acting President Xiong and Councilmembers Duncan, Dages and Westerlund relative to the City's past financial assistance, if any condition had been made that there would be no additional assistance, request for a clear accounting of funds if the veto is overridden, if SL/PL was agreeable to providing an accounting of funds, if SL/PL was planning to ask for assistance again next year, how realistic a merger was of SL/PL and the zoo, if the zoo and SL/PL agreed to meet again on the merger issue, concern that this request came in at the last minute with no written information, it being appropriate for the City to step in and help SL/PL, need to provide funds for both SL/PL and Lake Washington, if funds for Lake Washington would be in addition to these funds, need to continue investing in Roeding Park, commendation to Councilmember Duncan for making this request last year and Councilmember Westerlund for bringing the zoo and SL/PL together last week to meet, support for SL/PL and overriding the veto, report by Councilmember Westerlund on last weeks' merger discussion meeting, concern that this request came in outside of the normal process when other entities went through the proper process, SL/PL's past requests for assistance and possible future request, the Mayor's Lake Washington alternative being a good alternative, the funding talked about for both SL/PL and Lake Washington and if there was currently \$200,000 unallocated, if SL/PL wanted to operate the lake and boats (**3 - 0**), if utilization of the boats would provide a revenue stream for SL/PL, if insurance currently covered the boats, and if SL/PL will use the entire \$100,000 for capital improvements at the facility as noted on the list that was submitted.

Mr. Souza clarified the administration did not support overriding the veto as there was a funding process and it was not used and it was felt Lake Washington was a better use of the funds, and relative to the desire expressed to allocate an additional \$100,000 for Lake Washington recommended that be delayed until the mid-year budget review in late January/early February to get a better picture all around on the City's financial state and all the requests.

Upon the request of Acting President Xiong, Councilmember Sterling added to her motion the conditions that the money the \$100,000 raises be new money and that the funds will go to the specific capital improvements on the list.

Relative to comments made that this request came outside of the process Councilmember Duncan clarified the motion went through a deliberate process just like other motions that were made late, such as the aerial photos. Councilmember Westerlund stated the motion was better with the added conditions and upon his question Mr. Souza stated if funds are not identified for Lake Washington staff will -- at a minimum -- get the lake drained and at that point determine what direction to go/if it should be restored/what the best use will be, etc. President Perea stated he was surprised with all this discussion, he felt the added conditions were already implied, Council needed to get serious on whether they were going to continue to support this investment so this does not become such an issue in the future, and it was the feeling that SL/PL was worthy and Council needed to commit now to a three year match so it becomes part of the budget process.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the Mayoral veto of \$100,000 as matching funds for Storyland/Playland hereby overridden, and the conditions added that the money the \$100,000 raises be new money and the funds go to the specific capital improvements stated on the list submitted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(‘B’) REQUEST FOR RECONSIDERATION - CHARTER MANDATED (Requires simple majority vote)

1. RECONSIDER ADDING THE INDEPENDENT POLICE AUDITOR (IPA) TO THE PAR IN THE CITY MANAGER'S OFFICE (RES. 1007-215 - PAR)
2. RECONSIDER ADDING THE EXECUTIVE ANALYST TO COUNCIL POSITION BACK INTO THE PAR IN THE COUNCIL PRESIDENT'S BUDGET EFFECTIVE 1/1/08 (RES. 2007-215 - PAR)
3. RECONSIDER \$350,000 OF RESOURCES FOR THE POLICE DEPARTMENT AS ORIGINALLY PROPOSED IN THE DEPARTMENT'S FY 2008 BUDGET (RES. 2007-214 - AAR)
4. RECONSIDER AN ADDITIONAL \$50,000 OF FUNDING FOR THE REGIONAL JOBS INITIATIVE (RJI) TO RESTORE TO PROPOSED LEVEL OF \$175,000 (RES. 2007-214 - AAR)
5. RECONSIDER ADDING THE INDEPENDENT POLICE AUDITOR (IPA) IN THE SALARY RESOLUTION IN 2008 (RES. 2007-217 - SALARY RESOLUTION)

Councilmember Sterling made a motion to reconsider Item **B-1**.

A motion of Councilmember Sterling, seconded by Acting President Xiong, to reconsider adding the IPA to the PAR in the City Manager's Office failed, by the following vote:

Ayes	:	Sterling, Xiong
Noes	:	Calhoun, Dages, Duncan, Westerlund, Perea
Absent	:	None

City Attorney Sanchez clarified these reconsideration requests were Charter mandated and Council could move directly to the substance and act with one vote.

2. RECONSIDER ADDING THE EXECUTIVE ANALYST TO COUNCIL POSITION BACK INTO THE PAR IN THE COUNCIL PRESIDENT'S BUDGET EFFECTIVE 1/1/08 (RES. 2007-215 - PAR)

Acting President Xiong spoke in support stating he wanted the opportunity to have the position just as past Council Presidents had adding this was an important position, stated he heard some members had concerns in the past on how the position was used and requested Council give him the opportunity to work with each member on issues/options/how the position will be used, and made a motion to add the Executive Analyst to Council position back into the PAR, which motion was seconded by Councilmember Sterling.

Councilmember Calhoun spoke in opposition to the motion stating Council was very well staffed, there was no reason to add another floating position, these were taxpayer dollars and the position was not needed, the position turned over every year and that was not right and no way to treat a person, and it was time to recognize the position needed to go. Councilmember Duncan stated the funds were still there and Acting President Xiong could make the case to add the position back when he becomes Council President and added he would fully support it, and clarified his concern was the automatic nature of the position and spoke to past concerns.

Mr. Souza acknowledged the funds were still in place and the Mayor felt this was an opportunity for the incoming President to determine and establish his needs to run his office, and stated past Presidents have used the position well and strongly recommended the position be retained.

Councilmember Westerlund stated although he appreciated the personal appeal of this he has had a real concern with the position since he came on Council for the same reasons laid out by Councilmembers Calhoun and Duncan. President Perea spoke in support of the motion, to the workload of the Council President, and to his involvement in just about every play that occurs at City Hall, and stated staff was needed to research issues, many of which are very complex.

On motion of Acting President Xiong, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the Executive Analyst to the Council position added back into the PAR in the Council President's budget effective 1/1/08, by the following vote:

Ayes	:	Dages, Sterling, Xiong, Perea
Noes	:	Calhoun, Duncan, Westerlund
Absent	:	None

3. RECONSIDER \$350,000 OF RESOURCES FOR THE POLICE DEPARTMENT AS ORIGINALLY PROPOSED IN THE DEPARTMENT'S FY 2008 BUDGET (RES. 2007-214 - AAR)

A motion and second was made to approve **B-3**. City Manager Souza stated this would restore the original funding and it also related to discussions on how to address issues raised by Council during deliberation of the initial motion, and advised Chief Dyer and staff were working on options and would come back to the Mayor and Council with recommendations. Councilmember Calhoun requested Council be informed of any change in department policy stressing he hoped there was no hidden agenda and he would want to know, for example, of any plan to pull traffic enforcement officers from his district, with Mr. Souza responding.

On motion of Councilmember Sterling, seconded by President Perea, duly carried, **RESOLVED**, \$350,000 of resources for the Police Department as originally proposed in the department's FY 2008 budget added back, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

4. RECONSIDER AN ADDITIONAL \$50,000 OF FUNDING FOR THE REGIONAL JOBS INITIATIVE (RJI) TO RESTORE TO PROPOSED LEVEL OF \$175,000 (RES. 2007-214 - AAR)

Councilmember Westerlund spoke in support of adding back the \$50,000 stating the RJI has worked on so many important issues and they provided information/correspondence on what they planned to do with the money, and made a motion to restore the funds. Councilmember Sterling seconded the motion and along with Councilmember Calhoun concurred the RJI was doing good things and explained. Councilmember Duncan stated the funds were removed because the RJI was going to hire staff to look at the impact of planting trees which was redundant as the City already did that, and added the RJI wandered from their mission and urged Council to reject the motion. Upon question of Acting President Xiong, City Manager Souza stated the City has provided funding since the RJI's inception whereupon Acting President Xiong stated the RJI still has \$125,000, the City has been extremely supportive and consistent with funding, and he agreed with Councilmember Duncan. Mr. Souza stated he did not recall the RJI saying they wanted to fund trees and added their request was specific to continuing their cluster work and partnerships, and urged Council to approve the motion stating the RJI has been very effective. President Perea advised some statement was made on some type of parks or tree plan, stated he was just now hearing the RJI was going in another direction and added he did not receive the information on their plan, and stated he did not know if the case had been made for the \$50,000 and he wanted to hear the RJI make a case for the money, with Mr. Souza responding.

A motion of Councilmember Westerlund, seconded by Councilmember Sterling, to add \$50,000 of funding for the Regional Jobs Initiative to restore funding to the originally proposed level of \$175,000 failed, by the following vote:

Ayes	:	Calhoun, Sterling, Westerlund
Noes	:	Dages, Duncan, Xiong, Perea
Absent	:	None

5. RECONSIDER ADDING THE INDEPENDENT POLICE AUDITOR (IPA) IN THE SALARY RESOLUTION IN 2008 (RES. 2007-217 - SALARY RESOLUTION)

Upon question, City Attorney Sanchez advised even though Council voted against adding the IPA to the PAR the Charter required Council to reconsider the matter for purposes of the salary resolution, and a motion and second was made. Upon question of Councilmember Dages, City Manager Souza and Mr. Sanchez confirmed \$200,000 was associated with the position and those funds were excluded when Council adopted the budget.

A motion of Councilmember Sterling, seconded by Acting President Xiong, to add the IPA in the 2008 Salary Resolution failed, by the following vote:

Ayes	:	Sterling, Xiong
Noes	:	Calhoun, Dages, Duncan, Westerlund, Perea
Absent	:	None

(‘C’) REQUEST FOR RECONSIDERATION (Requires simple majority vote)

1. RECONSIDER \$100,000 MATCH FOR STORYLAND/PLAYLAND FOR THE SPECIFIC PURPOSE OF CAPITAL REPAIRS TO THE LAKE’S CIRCULATION EQUIPMENT (RES. 2007-214 - AAR)

Councilmember Duncan stated Lake Washington was at a crisis situation now after being ignored or years and spoke to the need to fix it and to his desire to allocate \$100,000, acknowledged that may put the budget a little out of balance but added he felt a way could be found in the next week to balance it, and made a motion to reconsider the AAR for the purpose of allocating \$100,000 for Lake Washington. Upon questions of Councilmember Dages, City Attorney Sanchez stated the motion would not jeopardize Storyland/Playland, Assistant P&R Director Haynes stated the lake was being sprayed for mosquitos, and relative to a possible funding source City Manager Souza stated the annual dues for the U.S. Conference of Mayors was \$17,000 **(4 - 0)**. Councilmember Dages seconded the motion. Councilmember Westerlund stated he had a problem with allocating money the City did not have and added he would support the funding when the city manager comes back with a plan and dollar amount to fix Lake Washington. Upon question of Acting President Xiong, Mr. Souza requested, because this was a new appropriation request, that staff be allowed to report back at the first meeting in August after the lake is drained with a specific detailed plan for the lake and possibly an appropriation request, whereupon Councilmember Duncan withdrew his motion. There was no further discussion.

(10:00 A.M.) HEARING TO RESCIND AND REPLACE RES. NOS. 2002-298, 299 AND 300 WHICH ORDERED THE VACATION OF VARIOUS STREETS AND ALLEYS BETWEEN ILLINOIS AND MCKENZIE AVENUES WEST OF FRESNO STREET TO ACCOMMODATE THE CONTINUING EXPANSION OF THE REGIONAL MEDICAL CENTER - R.I. 1061-D

- 1. RESOLUTION NO. 2007-245** - RESCINDING RES. 2002-298 AND ORDERING THE VACATION OF PORTIONS OF THE VALERIA-THESTA ALLEY, THESTA STREET, THE THESTA-HOWARD ALLEY, HOWARD STREET, AND THE HOWARD-FRESNO ALLEY BETWEEN ILLINOIS AND MCKENZIE AVENUES
- 2. RESOLUTION NO. 2007-246** - RESCINDING RES. 2002-299 AND ORDERING THE VACATION OF PORTIONS OF THE CLARK-DIANA ALLEY, CLARK STREET, AND THE CLARK-VALERIA ALLEY BETWEEN ILLINOIS AND MCKENZIE AVENUES
- 3. RESOLUTION NO. 2007-247** - RESCINDING RES. 2002-300 AND ORDERING THE VACATION OF PORTIONS OF THE CLARK-DIANA ALLEY AND CLARK STREET BETWEEN DIVISADERO AND ILLINOIS, AND DIVISADERO AND ILLINOIS AVENUES BETWEEN DIANA AND CLARK STREETS
- 4. RESOLUTION NO. 2007-248** - ORDERING THE VACATION OF ILLINOIS AVENUE BETWEEN CLARK AND FRESNO STREETS
- 5. RESOLUTION NO. 2007-249** - ORDERING THE VACATION OF A PORTION OF VALERIA STREET BETWEEN ILLINOIS AND MCKENZIE AVENUES

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Senior Engineering Technician Polsgrove stated the staff report as submitted was complete and there was no new information to add. City Attorney Sanchez and Councilmember Calhoun advised they had a conflict as their spouses worked for the hospital and recused themselves and left the meeting at 11:15 a.m.

Larry Price, 245 N. Clark, questioned what was at issue and how the vacations would impact him as a homeowner, with Mr. Polsgrove and Assistant City Attorney Hale responding.

Councilmember Sterling questioned the impact of laying the matter over one week so staff could meet with area residents to explain issues, with Mr. Polsgrove advising the first phase was time sensitive, whereupon Councilmember Sterling requested Mr. Price contact her office and staff to discuss the issue further. A motion was made to adopt the resolutions.

Upon call, no one else wished to be heard and President Perea closed the hearing.

Councilmember Westerlund stated he also was unclear as to what was happening and presented questions, with Assistant Public Works Director Mozier and Mr. Polsgrove responding and further explaining/clarifying issues. Councilmember Duncan left the dais during questioning.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2007-245, 2007-246, 2007-247, 2007-248 and 2007-249 hereby adopted, by the following vote:

Ayes	:	Dages, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	Duncan
Recused :		Calhoun

Councilmembers Duncan and Calhoun returned to the meeting at 11:28 a.m.

(10:30 A.M.) TEFRA HEARING AS REQUIRED BY THE INTERNAL REVENUE CODE TO HEAR AND CONSIDER THE PROPOSED ISSUANCE OF TAX EXEMPT REVENUE BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA) FOR THE PURPOSE OF FINANCING THE CONSTRUCTION OF AN EARLY HEAD START CHILD CARE CENTER FOR THE BENEFIT OF CHILDREN OF LOW-INCOME STUDENT-TEEN-PARENTS ATTENDING THE FCEOC CHARTER SCHOOL OF UNLIMITED LEARNING

- 1. RESOLUTION NO. 2007-250** - APPROVING THE ISSUANCE OF TAX-EXEMPT REVENUE OBLIGATIONS BY THE CSCDA IN AN AMOUNT NOT TO EXCEED \$1.5 MILLION

President Perea announced the time had arrived to consider the issue and opened the hearing.

Assistant Controller Bradley reviewed the issue, all as contained in the staff report as submitted.

Roger Palomino, FCEOC Executive Director, spoke further to the project and requested support.

Upon call, no one else wished to be heard and President Perea closed the hearing.

Councilmember Sterling spoke briefly in support and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2007-250 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(10:45 A.M.) HEARING TO CONSIDER AN APPEAL OF THE PLANNING & DEVELOPMENT DIRECTOR'S ACTION APPROVING CUP NO. C-07-134 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO PERTAINING TO THE INSTALLATION OF TWO MEGAWATTS OF GROUND MOUNTED SOLAR PHOTOVOLTAIC PANELS AT TWO LOCATIONS ON FYI PROPERTY (SOUTHEAST CORNER OF S. CLOVIS AND E. MCKINLEY AND ON THE EAST SIDE OF ASHLEY ROAD BETWEEN CLINTON WAY AND E. ANDERSON ROAD)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT (E.A.) NO. C-07-134, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2007-251 - ADOPTING THE FINDING OF CONFORMITY WITH THE MEIR AND APPROVING CUP APPLICATION NO. C-07-134

President Perea announced the time had arrived to consider the issue and opened the hearing.

Planner Sanchez reviewed the issue, all as contained in the staff report as submitted, and recommended Council deny the appeal and approve the project.

Speaking to the issue were: Nicole Gerring, 4309 Hacienda Drive, Ste. 500, Pleasanton, CA, Governmental Affairs Director for the Associated Builders and Contractors/Golden Gate Chapter, concerns/opposition to the appeal; and Attorney Tom Enslow, Adams Broadwell Joseph & Cardozo, 520 Capital Mall, Ste. 350, Sacramento, CA, on behalf of IBEW Union Local 100, who questioned why Council was hearing this appeal and not the planning commission, and spoke to CEQA issues and their appeal. Upon question of President Perea, City Attorney Sanchez stated the appeal hearing process was appropriate as the basis for the challenge was the CEQA analysis and under State law that would come to Council for final determination.

Continued speakers were: Curtis Neil, representing Sharp Solar Energy Systems, Bakersfield, CA, support for the project, who also submitted into the record an article from the Los Angeles Times entitled "Struggle Over Power Plants"; Amy Huerta, Government Affairs Manager for the Fresno Chamber of Commerce, support for the project/concern with the appeal; Kevin Dayton, Government Affairs Director of Associated Builders and Contractors of CA, 1020 K Street, Sacramento, CA, concern with the appeal; and Erik Christen, Executive Director for the Coalition for Fair Employment in Construction, 1029 K Street, Sacramento, CA, concern with the appeal.

Upon call, no one else wished to be heard and President Perea closed the hearing.

Mr. Enslow and City Attorney Sanchez responded to questions and comments of Councilmember Duncan relative to the appeal, what needed to be done to withdraw the appeal, why IBEW was suddenly interested in this project/why it was such a big concern, surprise that an electrical workers union has now become a self-proclaimed leader in the environmental movement leading one to believe there is an alternative agenda here **(5 - 0)**, if the law firm's clients were going to start becoming active in all projects or just this one, the skepticism/irony/surprise that an organization with such good people would work so hard to stop a project that will benefit the environment, if litigation will follow if the appeal is denied, if the city attorney was comfortable that staff conducted an appropriate level of environmental review, and if the city's ordinance prohibiting project labor agreements (PLAs) would apply to this project.

Councilmember Duncan stated he agreed with ABC and added if the intent of the appeal was to force PLAs this was not the right project to challenge, stated this was going to be a project that will be well managed and at the end of the day make a big difference in the quality of air, and made a motion to deny the appeal and approve the CUP.

Councilmember Westerlund spoke to his review of all documents, addressed the appellant's items of contention, stated based on his analysis this appeal seemed to be pretty bogus and a transparent use of CEQA to drive some other agenda, and urged Council to support the motion. Councilmember Sterling spoke to how addressing environmental issues was a primary factor when developing the 2025 general plan and upon her questions Mr. Sanchez confirmed all proper procedures were followed and Council was the deciding legislative body because CEQA was the basis of the appeal. Councilmember Dages commended Mr. Enslow and Ms. Huerta for their professional and polite comments, and spoke to the rudeness of some speakers, the issue of PLAs, and his disappointment with IBEW's approach with conditions and World Water & Power not working with the unions when they said they would.

Airports Director Widmar, Larry Slominski of World Water & Power (WWP), and IBEW representative Gerald Zumwalt responded to a question of Acting President Xiong relative to whether anything changed in the hiring of IBEW, to Councilmember Dages' comments on WWP's commitment, and to WWP contacting IBEW's business representative.

Mr. Sanchez clarified at issue was an appeal of the CEQA process for the CUP and added while labor matters were important they were not the basis for this appeal. Brief discussion continued on WWP working with IBEW whereupon President Perea stated he was glad to hear the two would meet stating he felt good things would come out of it to ensure the project is built well, prevailing wage will be paid, and the commitment to renewable will be kept and renewable energy provided, and also thanked the Chamber and IBEW for keeping comments professional stating it was important to stick with the issues.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Environmental Assessment No. C-07-134 and Resolution No. 2007-251 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

LUNCH RECESS - 12:27 P.M. - 2:00 P.M. Councilmember Sterling arrived later.

(11:00 A.M.) CONTINUED HEARING TO CHANGE THE MAXIMUM SPECIAL TAX AND APPROPRIATIONS LIMIT FOR CFD NO. 2, ANNEXATION NO. 81 (FINAL TRACT 5258) AND ANNEXATION NO. 82 (FINAL TRACT 5295)

1. RESOLUTION NO. 2007-252 - AUTHORIZING THE LEVY OF AN AMENDED SPECIAL TAX AND SETTING AN AMENDED APPROPRIATIONS LIMIT

2. RESOLUTION NO. 2007-253 - CALLING A SPECIAL MAILED-BALLOT ELECTION, *as amended, changing the hearing date to October 23, 2007*

3. RESOLUTION - DECLARING ELECTION RESULTS (*Laid over to October 23, 2007*)

4. RESOLUTION - CHANGING THE MAXIMUM SPECIAL TAX FOR ANNEXATION NOS. 81 AND 82 (*Laid over to October 23, 2007*)

5. BILL - AMENDING AND MODIFYING ORDINANCE NOS. 2005-70, 2004-124, 2005-71 AND 2004-125 AND LEVYING AN AMENDED SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 (*Laid over to October 23, 2007*)

President Perea announced the time had arrived to consider the issue and opened the hearing.

Assistant Public Works Director Mozier advised only 12 of the 24 property owners returned their ballots and State law required a 90 day waiting period between the calling of the election and closure of that period by which property owners can return their ballots, and recommended Resolutions #1 & #2 be adopted, with #2 amended to change the election date to October 23, 2007, and stated the remaining resolutions and ordinance bill would be presented on October 23rd for adoption.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2007-252 hereby adopted and Resolution No. 2007-253 adopted *as amended*, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	Sterling

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(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-B) ADOPT THE DEPARTMENT OF PUBLIC UTILITIES' PROPOSED PLAN AND SCHEDULE FOR THE DEVELOPMENT OF THE CITY'S SEWER SYSTEM MANAGEMENT PLAN (SSMP)

Public Utilities Director Ramirez responded to questions/comments of Councilmember Westerlund relative to the plan, whether an air quality element should be included due to methane gas and other emissions that come through the WWTP systems, and need to be conscious of that.

On motion of Councilmember Westerlund, seconded by Acting President Xiong, duly carried, RESOLVED, the Department of Public Utilities' proposed plan and schedule for the development of the City's Sewer System Management Plan hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	Sterling

(1-F) RESOLUTION NO. 2007-254 - APPROVING A RELINQUISHMENT AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR A PORTION OF THE OLD STATE ROUTE 41 BRIDGE AT THE SAN JOAQUIN RIVER, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY, as amended, with final acceptance subject to Council discretion

Councilmember Calhoun noted concern was expressed before by staff on accepting the bridge and presented questions/comments relative to what changed, need to ensure the City is not picking up a "white elephant", why staff wants to accept the bridge, the studies Caltrans will conduct and if the findings could come back to Council for a final determination rather than delegating that authority to the public works director, and what the pros and cons were of Council making the final determination, with Assistant Public Works Director Mozier and City Attorney Sanchez responding. Councilmember Sterling arrived at 2:11 p.m. during the discussion. Councilmember Calhoun stated he wanted Council to be in the loop and was looking for the most conservative and safe approach to final determination, and made a motion to adopt the resolution, as amended, to have the final acceptance subject to Council discretion. Upon questions of Mr. Sanchez and Councilmember Calhoun, Mr. Mozier stated he felt Caltrans would accept the amendment as the second party to the agreement and the Board of Supervisors would be considering something similar and staff would convey this change to the Board and Madera County staff. Councilmember Westerlund requested staff bring the matter back to Council should any problem arise with Caltrans which may cause this to not go forward **(6 - 0)**.

On motion of Councilmember Calhoun, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2007-254 hereby adopted, as amended, making final acceptance subject to Council discretion, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(1-H) RESOLUTION NO. 2007-255 - APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT, ELECTRONIC MOBILITY REMOVE II PROGRAM, FOR THE PURCHASE OF A WEB-BASED SOFTWARE APPLICATION THAT PROVIDES ON-LINE ACTIVITY REGISTRATION, FACILITY RESERVATION AND SPORTS SCHEDULING FOR THE PARKS, RECREATION & COMMUNITY SERVICES DEPARTMENT, AND AUTHORIZE THE PR&CS DIRECTOR OR DESIGNEE TO EXECUTE AND SUBMIT ALL DOCUMENTS WHICH MAY BE NECESSARY TO CARRY OUT THE PURPOSE SPECIFIED IN THE APPLICATION AND THE PROJECT

Administrative Manager Melikian responded to questions and comments of Councilmember Westerlund relative to payment methods, type of credit cards that will be accepted, reservation processing and if it made sense for P&R to be a satellite office versus integrating with the Treasury Office, and need for safeguards for proper accounting.

On motion of Councilmember Westerlund, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2007-255 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

(2:00 P.M. #2) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(A) EXISTING LITIGATION - CASE NAMES:

1. CITY OF FRESNO V. DAVID MASSRY, ET AL.
2. SHIELDS WEST, LLC V. COF, ET AL.

(B) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: FEDERAL AVIATION ADMINISTRATION (FAA) V. COF (GAP PROJECT)

The City Council met in closed session in Room 2125 at the hour of 2:25 p.m. to consider the above matters and reconvened in regular open session at 3:05 p.m. No announcements were made.

(2:30 P.M.) PRESENTATION AND DISCUSSION OF “FINDING HOME”, A SHORT FILM BY SUZANNE BERTZ-ROSA - COUNCILMEMBER CALHOUN

Councilmember Calhoun introduced the item and stated this film tied in with Council discussions on economic development, a viable community, and a creative downtown, and introduced Ms. Bertz-Rosa. Ms. Bertz-Rosa stated her film looked at both the positives and negatives of living in Fresno, what can be learned from leaving the valley and then coming back, and the value in recruiting our sons and daughters back to Fresno; submitted material on the boomerang strategy work of Creative Fresno, the RJI and the Lyles Center; and played her film. Ms. Bertz-Rosa was thanked for the presentation and there was no discussion.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:29 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the _____ day of _____, 2007.

_____ ATTEST: _____	
Henry T. Perea, Council President	Yolanda Salazar, Assistant City Clerk